



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
310 GREAT CIRCLE ROAD
NASHVILLE, TENNESSEE 37228

Trading Partner Agreement

THIS TRADING PARTNER AGREEMENT (Agreement) is between **The State of Tennessee, Department of Finance and Administration, Bureau of TennCare**, 310 Great Circle Road, Nashville, TN 37243 (TennCare) and _____ (Trading Partner), located at _____ including all office locations and other business locations at which Trading Partner data may be used or maintained. TennCare and _____ as Trading Partner may be referred to herein individually as “Party” or collectively as “Parties.”

1. PURPOSE and BACKGROUND

- 1.1 TennCare by law, in its capacity as the Medicare/Medicaid Agency for the State of Tennessee, must operate the TennCare Medicaid Management Information System (TCMIS). The TCMIS system contains information regarding claims adjudication, eligibility verification, prior authorization and other information related to the TennCare Program.
- 1.2 TennCare owns the data in the TCMIS and operates the system in which the claims and eligibility data flow. Trading Partners provide the pipeline network for the transmission of electronic data; thus, are required to transport TCMIS data to and from TennCare and providers of TennCare services.
- 1.3 This Agreement delineates the responsibilities of TennCare and the Trading Partner in transporting TCMIS data for TennCare in its operation of the TennCare Program.
- 1.4 This Agreement is ancillary to any State Revenue Contract (SRC), Contractor Risk Agreement (CRA) and Business Associate Agreement (BAA) entered into between the parties where applicable. The provisions of the SRC, CRA and BAA are hereby incorporated by reference and shall be taken and considered as a part of this Agreement the same as if fully setout herein.

2. SCOPE

- 2.1 System Access. TennCare agrees to provide Trading Partner with electronic access to TennCare TCMIS systems and network for the purpose of exchanging transactions via Trading Partners' computer systems and network or their authorized designee's computer systems and network.
 - 2.1.1 To the extent Trading Partner executes a contract with TennCare service providers, or their authorized designee (clearinghouse, Virtual Access Network (VAN), billing service, etc.), Trading Partner shall represent that it has on hand all necessary authorizations for submitting and receiving TennCare TCMIS data. Said contract must stipulate that providers use software tested and approved by Trading Partner as being in the proper format and compatible with the TennCare TCMIS system.
 - 2.1.1.1 Trading Partner agrees that the TennCare TCMIS data transmitted or received by it shall be released only in support of the terms of an executed contract between Trading partner and the authorized party requesting information to the extent authorized party's request is for the purposes of reporting eligibility for Medicaid benefits specific to individuals and dates of service and a treatment relationship exists to support and justify the authorized party's request in keeping with this Agreement.
 - 2.1.2 Prior to the submission of any transactions to the TennCare TCMIS production systems, Trading Partner agrees to submit test transactions to TennCare for the purpose of determining that the transactions comply with all requirements and specifications required by TennCare.
 - 2.1.3 Successful transaction testing must be achieved by Trading Partner for each provider number that the Trading Partner represents before any production transaction submissions are processed for that provider. No electronic transaction received by TennCare for providers without successful transaction testing shall be processed.
 - 2.1.4 The parties agree that TennCare shall make the sole determination that test data is acceptable and that transaction testing is successful. This capability to submit test transactions shall be maintained by Trading Partner throughout the term of this Agreement.
- 2.2 Transaction Types. Trading Partner agrees to submit to the TennCare TCMIS only those individual transaction types for which specific approval from TennCare has been requested and received via the Electronic Data Interchange (EDI) Request Form. Prior to the submission of any transaction types to the TennCare TCMIS production system, or as a result of making changes to an existing transaction type or system, Trading Partner agrees to submit test transactions to TennCare for both the additional and any previously approved transaction types.

- 2.3 Data Submission. Trading Partner shall prepare and submit or receive TCMIS data using network connectivity, protocols, and media approved by TennCare. The addition and deletion by TennCare of approved submission network connectivity, protocols, and media may occur from time to time. To the extent the deletion of a network connectivity, protocol, or media is contemplated from the approved list, TennCare shall supply the Trading Partner with ninety (90) days notice of the date of impending deletion.
- 2.4 Transmission Speed. For electronic transmission, such as File Transfer Protocol (FTP), that does not involve the physical exchange of storage media, the Trading Partner agrees to provide a minimum design transmission speed of 56 kilobits per second (KBS) with an effective transmission speed of at least eighty percent (80%) of the design transmission speed on a dedicated, secure channel or Virtual Private Network (VPN) from the Trading Partner data center to the TennCare facility. Trading Partner is free to choose type of channel and ultimate speed above 56 KBS. Trading Partner must coordinate any equipment selection or changes with TennCare to ensure compatibility with the TennCare facilities. Trading Partner is responsible for all costs including installation costs, equipment, and line charges.
- 2.5 Data Encryption. Trading Partner must encrypt all data transmitted on channels not otherwise secured and maintain full compatibility with TennCare facilities. TennCare reserves the right to determine when encrypted transmissions are necessary and what encryption technologies and implementations are considered sufficiently secure.
- 2.6 Compression/Decompression. Trading Partner must be capable of compressing and transmitting and receiving and decompressing transaction data files that are compressed and decompressed using the algorithms commercially known as “zip” or “gzip.”
- 2.7 Network Connectivity Agreement. Trading Partner shall execute a Network Connectivity Agreement with the State of Tennessee.

3. **DEFINITIONS**

- 3.1 “Confidential Information” shall mean any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is supplied by TennCare to the Trading Partner under this Agreement. Any information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, relating to individuals enrolled in the TennCare program (“TennCare enrollees”), or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained through the Trading Partner’s performance under this Agreement, shall also be treated as “Confidential Information” to the extent that confidential status is afforded such information under state and federal laws or regulations. All confidential information shall not be subject to disclosure under the Tennessee Public Records Act.

- 3.2 “Covered entity” shall mean (1) A health plan.(2) A health care clearinghouse.(3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 CFR Parts 160 & 164.
- 3.3 “*En Masse Inquiry*” shall mean data matching of less than fifty percent (50%).
- 3.4 “Health care clearinghouse” shall mean a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that does either of the following functions: (1) Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction. (2) Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.
- 3.5 “Health care provider” shall mean a provider of services (as defined in section 1861(u) of the Act, > 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, > 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.
- 3.6 “Health plan” shall mean an individual or group plan that provides, or pays the cost of, medical care information or when requesting protected health information from another covered entity, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. A covered entity must limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.
- 3.7 “Individually identifiable health information” means any information, including demographic information collected from an individual, that (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (b) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and identifies the individual; or, with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- 3.8 “Payment” shall mean (1) The activities undertaken by: (i) A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or (ii) A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and (2) The activities in paragraph (1) of this definition relate to the individual to whom health care is provided.
- 3.9 “Proprietary Information” shall mean TennCare processes, procedures, software, methods and any property of, or relating to, TennCare data.

- 3.10 “Protected Health Information” shall mean individually identifiable health information, that is transmitted by electronic media, maintained in electronic media; or transmitted or maintained in any other form or medium.
- 3.11 “Standard Eligibility Transaction” shall mean the Health Insurance Portability and Accountability Act of 1996 (HIPAA) 270/271 eligibility inquiry from a sender that is a health plan or health care provider and the designated response from TennCare.
- 3.12 “Treatment” shall mean the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.
- 3.13 “Treatment Relationship” shall have the following meanings:
- 3.13.1 “Direct Treatment Relationship” shall mean a treatment relationship between an individual and a health care provider that is not an indirect treatment relationship.
- 3.13.2 “Indirect Treatment Relationship” shall mean a relationship between an individual and a health care provider in which (1) The health care provider delivers health care to the individual based on the orders of another health care provider; and (2) The health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services or products or reports to the individual.

4. COMPLIANCE

- 4.1 Trading Partner agrees to comply with all State and Federal laws, regulations, and policies as they exist or as amended that are or may be applicable to this Agreement, including, but not limited to, ancillary agreements such as the SRC, CRA and BAA (Section 1).
- 4.1.1 Proprietary and Confidential Information [See 3.1 & 3.9]. All proprietary information, including but not limited to, provider reimbursement information provided to TennCare, shall be deemed confidential and not subject to disclosure under the Tennessee Public Records Act.
- 4.1.2 Duty to Protect. Confidential Information (i) shall be held by the Trading Partner in strictest confidence at all times; (ii) shall not be disclosed or divulged by the Trading Partner to any person or entity, except those employees and agents of the Trading Partner who require access to such information, and only after those employees and agents have been instructed that the information is subject to the confidentiality obligations set forth herein; and (iii) shall not be used by the Trading Partner for any purpose not set forth herein or otherwise authorized in writing by TennCare. The Parties shall diligently exercise the highest degree of care to preserve the security and integrity of, and prevent

unauthorized access to, the Confidential Information. By executing this Agreement, Trading Partner and TennCare assure that each respective organization has established written policies and procedures relating to confidentiality, including the confidentiality of protected health information and eligibility information. The Trading Partner and TennCare further assure, by executing this Agreement, that its respective organization has implemented administrative, technical and physical safeguards and mechanisms that protect against the unauthorized or inadvertent disclosure of confidential information to any person or entity outside its organization.

- 4.1.3 Any information obtained by TennCare Trading Partners, intermediaries or carriers in the course of carrying TennCare agreements shall not be disclosed and remain confidential; furthermore, such requests which have been made pursuant to the Freedom of Information Act (FOIA) shall be denied under authority of an appropriate FOIA exemption.

- 4.2 Explicit Data Sharing. TennCare contemplates data sharing within the ambit of HIPAA to include, but not be limited to, specific testing environments for the purpose of establishing a treatment relationship or to respond to Medicare Advantage plan finder file eligibility inquiries for the purpose of identifying dual eligibles enrolled in the Medicare Advantage plan.

Such transactions shall be implemented under the health care operations exception set forth in HIPAA and for payment purposes, respectively.

- 4.2.1 Data Storage. Trading Partner, if a Health care Clearinghouse, shall not store eligibility information received on behalf of a request by a subscriber provider except to the extent confirmation of delivery is necessary. In no event shall Trading Partner store eligibility information beyond a reasonable threshold period defined by TennCare, nor shall Trading Partner retain TennCare related data for independent third-party documentation without prior approval and written authorization from TennCare.
- 4.2.2 To the extent Trading Partner is classified as a Health care Clearinghouse, Trading Partner shall not inquire *en masse* for eligibility data for an entire subscriber provider roster where the inquiry is not in the context of immediate treatment, payment or health care operations.

To the extent Trading Partner is classified as a Health care Clearinghouse, Trading Partner may forward requests on behalf of and on the explicit request of health care provider subscribers who in turn can request the eligibility data only to support a direct patient treatment relationship and verification of eligibility to support treatment, payment or health care operations for a patient who represents that he/she is covered by Medicaid or whom the health care provider reasonably believes to be covered by Medicaid.

- 4.2.3 Prohibition of Data Mining. Trading Partner is prohibited from any and all automated extraction of predictive information from data for the purpose of finding patterns of behavior and trends or anomalies that may otherwise escape detection, the advanced statistical analysis and modeling of the data to find useful patterns and relationships, and

the use of computational techniques involving statistics, machine learning and pattern recognition to analyze the data.

- 4.3. Treatment Relationship. To the extent data sharing or EDI is utilized between the Parties for the purposes of provision, coordination or management of a treatment relationship, such use or disclosure shall be governed by strict compliance with return and destruction of protected health information (PHI) referenced in Section 9.3 of this Agreement.
- 4.3.2 Medicare Advantage Plan. TennCare may use or disclose PHI for its payment purposes, as well as for the payment purposes of another covered entity that receives the information. TennCare will accept and respond to Medicare Advantage plans' "finder files" to enable Medicare Advantage plans to claim the appropriate payment rate for their dual eligible enrollees pursuant to the limiting provisions within this Agreement.
- 4.3.2.1 Access/Usage Fee. TennCare reserves the right to amend this Agreement to institute fees predicated upon Trading Partner's access to and usage of TennCare enrollee data absent a bidirectional relationship for such data.
- 4.3.3 Suspension of Access. TennCare reserves the right to suspend Trading Partner's access in the event of Trading Partner's inappropriate use of access as determined by TennCare, including, but not limited to, in the event fifty percent (50%) of Trading Partner requests received are not matched. TennCare may evaluate such patterns for indications of inappropriate use, including inquiry outside of the context of immediate treatment, payment or healthcare operations, or where the Trading Partner has no reasonable cause to believe that information requested was for individuals eligible for TennCare.

5. CLAIMS, CHARGES AND PAYMENT

- 5.1 Consideration. The Trading Partner certifies that all services for which reimbursement will be claimed shall be provided in accordance with all federal and state laws pertaining to the TennCare Program.
- 5.1.1 The Trading Partner certifies that all charges submitted for services and items provided shall not exceed Trading Partner's and/or Provider's usual and customary charges for the same services and items provided to persons not entitled to receive benefits under the TennCare Program.
- 5.1.2 The Trading Partner understands that any payments made in satisfaction of claims submitted through Electronic Media shall be delivered from federal and state funds and that any false claims, statements or documents, or concealments of a material fact may be subject to prosecution under federal and state law.
- 5.2 Access. The Trading Partner and/or Provider shall allow TennCare access to claims data and assures that claims data shall be submitted by authorized personnel so as to preclude

erroneous payments received by the Trading Partner and/or Provider regardless of the reason for such erroneous payments.

6. HIPAA GUIDELINES FOR ELECTRONIC TRANSACTIONS

- 6.1 HIPAA Transactions. TennCare has adopted the HIPAA transaction standards and has created companion documentation to assist in conducting electronic transactions with TennCare. The ASC X12 and National Council for Prescription Drug Programs (NCPDP) standards required by HIPAA regulation are formulated to minimize the need for users to reprogram their data processing systems for multiple formats by allowing data interchange through the use of common interchange structures.
- 6.2 Capacity. TennCare shall acknowledge standard HIPAA X12 transactions from an authorized trading partner. No other transactions are acknowledged including proprietary formats and those from an unauthorized submitter.
- 6.3 HIPAA Companion Guide. All TennCare specific information can be found in the TennCare HIPAA Companion Guide, which is a de facto part of this Trading Partner Agreement. The TennCare HIPAA Companion Guide is a multi-part document that can be accessed from the TennCare website or provided by e-mail via written request.
- 6.3.1 270/271 Healthcare Eligibility Benefit Inquiry/Response. Transaction Standard for Eligibility for a Health Plan - This transaction is used by fee-for-service (FFS) providers to receive eligibility information about a subscriber. TennCare may also use this transaction set to verify eligibility for a third party health plan or Medicare Advantage plan. Data sharing or EDI utilized between the Parties shall be for the purposes of provision, coordination or management of a current treatment relationship or for an enrollee for whom an open balance exists which has been timely filed and is within TennCare's look-back time parameters.
- 6.3.2 276/277 Health Care Claim Status. Transaction Standard for Health Care Claim Status and Response – This transaction is used by the FFS provider to get the status of a claim.
- 6.3.3 278 Referral Certification and Authorization. Transaction Standard for Referral Certification and Authorization – This transaction is used by FFS providers to request prior authorization for clients receiving services from a FFS provider.
- 6.3.4 820 Payment Order/Remittance Advice. Transaction Standard for Health Plan Premium Payments – This transaction shall be sent to the Managed Care Contractors (MCCs) and shall contain the capitated payment summary for the month.
- 6.3.5 834 Benefit Enrollment and Maintenance. Transaction Standard for Enrollment and Disenrollment in a Health Plan – This transaction is sent to the MCCs and shall contain enrollment information for the MCC. A 271U response transaction that primarily contains service limits information is always distributed with an 834.

- 6.3.6 835 Remittance Advice. Transaction Standard for health Care Payment and Remittance Advice - This transaction is used by FFS providers to receive an electronic remittance advice.
- 6.3.7 837 Professional. Transaction Standard for Health Care Claims or Equivalent Encounter Information: Professional – This transaction is used to submit professional claims from FFS providers and encounter data information from the MCCs.
- 6.3.8 837 Dental. Transaction Standard for Health Care Claims or Equivalent Encounter Information: Dental - This transaction is used to submit dental encounter data from the Dental MCC.
- 6.3.9 837 Institutional. Transaction Standard for Health Care Claims or Equivalent Encounter Information: Institutional - This transaction is used to submit institutional claims from FFS providers and encounter data information from the MCCs.
- 6.3.10 NCPDP 1.1. Transaction Standard for Health Care Claims or Equivalent Encounter Information: Pharmacy - This transaction is used to submit retail pharmacy crossover claims from the Durable Medical Equipment Regional Carrier (DMERC) and encounter data information from the Pharmacy MCC.

7. ELECTRONIC DATA INTERCHANGE (EDI) DOCUMENTS

- 7.1 EDI Request Form. The EDI Request Form outlines all transactions used between TennCare and the Trading Partner including HIPAA transactions and proprietary formats. For most proprietary formats, the transaction name is sufficient identification information; however, a file format and/or additional clarification data for any proprietary format may be appended to the EDI Request Form, if necessary.
 - 7.1.1 Updates to the EDI Request Form may be made at any time by mutual agreement of both parties. Each update of the EDI Request Form supersedes all prior versions; therefore, each EDI Request Form must contain all transactions between both parties.
- 7.2 Acknowledgment. All transactions received by TennCare shall receive a 997 acknowledgement regardless of their HIPAA status.
 - 7.2.1 Each Trading Partner has the option to send back to TennCare 997 acknowledgement transactions on all formats, except the TennCare outbound 834 and 271U transactions, which require acknowledgements. The Trading Partner must indicate their acknowledgement intent for every transaction on the EDI Request Form.
 - 7.2.2 Any transaction, per the Trading Partner Agreement, requiring an acknowledgement back to TennCare where an acknowledgement is not received, shall result in a transmission re-send before the next update cycle is processed.

- 7.3 Transaction Tables. The “Transaction Frequency” column shall contain the anticipated normal frequency of this transaction. Anticipated values are “D” for daily, “W” for weekly, “S” for semi-monthly, “M” for monthly, “Q” for quarterly, “A” for annually, “R” for on-request, “O” for other. Multiple indicators may be used for a transaction that has multiple processing cycles.
- 7.3.1 The “Transaction Source” column shall contain the origination source for the transaction. For transactions that come from TennCare, this column is already filled in with “TennCare”. For transactions from the Trading Partner, “TP” may be used. For transactions created by a third party for the Trading Partner, enter the third party’s name.
- 7.3.2 The “Trading partner access person” column shall contain the name(s) of all individuals listed on the Security Forms below who shall access the given transaction.
- 7.3.3 The blank transaction rows on the request form are for proprietary file formats. Each production file sent between TennCare and the Trading Partner shall be represented on this form. Trading Partners that have multiple sources for a given transaction should include the file format once for each source.
- 7.4 Unique Identifier. TennCare shall assign a unique identification number or “Submitter ID” to every trading partner. For most trading partners, the Submitter ID shall be based upon tax ID – Employer Identification Number (EIN) or Social Security Number (SSN) – since the tax ID is already a required identifier on many HIPAA transactions. The assigned Submitter ID shall be used on all HIPAA transactions. The Submitter ID shall be used as the Receiver ID for transactions that originate from TennCare.
- 7.4.1 The Trading Partner may provide a GS02 sender code on the EDI Request form. This code shall be used as the GS03 receiver code for transactions originating from TennCare. A default value of the Trading Partner’s Submitter ID shall be used if a value is not specified.
- 7.4.2 See attached EDI Request form.

8. SECURITY

- 8.1 Security Forms. Trading Partner shall complete an acknowledgement of the TennCare Acceptable Use Policy for every individual that shall access the TennCare System. TennCare’s security standards and the Center for Medicare and Medicaid Services (CMS) privacy and security regulations require the assignment of individual IDs.
- 8.1.1 See attached TennCare Acceptable Use Policy.
- 8.1.2 For all forms requiring signatures, two (2) signed copies of completed forms must be mailed to TennCare Security at the TennCare address above. All forms must be completed as accurately as possible.

- 8.1.3 Upon processing of security forms, TennCare will countersign and return one copy of the forms for Trading Partner's files, along with Trading Partner's pertinent sign-on information.
- 8.1.4 Additional Security Forms may be submitted by the Trading Partner at any time after the execution of this Agreement to request access for additional individuals. Standard TennCare processing shall apply to the additional requests.
- 8.2 Terminated Employees - Security. It is the responsibility of the Trading Partner to notify TennCare when a listed individual leaves the employment of the Trading Partner or has a legal name change. Failure to do so may result in the contract termination.
- 8.3. Access Request. Trading partner shall submit a completed TennCare Access Request form for each type of access desired for the transmission or reception of transaction data, and for each Trading Partner workforce individual controlling such transmissions or receptions.
 - 8.3.1 The Trading Partner shall submit for TennCare's approval a list of from one (1) to three (3) Trading Partner workforce individuals authorized to submit Access Requests on behalf of the Trading Partner.
 - 8.3.2 It is the responsibility of the Trading Partner to notify TennCare when a Trading Partner workforce individual authorized to submit Access Request forms leaves the employment of the Trading Partner or has a legal name change.
 - 8.3.3 See attached Access Request form.
- 8.4 Network Connectivity Agreement. The Trading Partner shall complete and provide to TennCare a State of Tennessee Network Connectivity Agreement. It is the responsibility of the Trading Partner to notify TennCare, by providing an updated Network Connectivity Agreement, any material changes to their systems and networks that would have impact on their connectivity with the State of Tennessee's networks.
 - 8.4.1 See attached Network Connectivity Agreement.

9. TERM AND TERMINATION

- 9.1 Term. This Agreement shall be effective as of the last date on which it has been executed by the Parties below and shall terminate three (3) years from its effective date.
 - 9.1.1 TennCare reserves the right to extend this Agreement for a(n) additional period(s) of time representing increments of no more than one (1) year and a total term of no more than five (5) years, provided that TennCare notifies the Trading Partner in writing of its intention to do so at least six (6) months prior to the Agreement expiration date. An extension of the term of this Agreement shall be effected through an amendment to the Agreement.
 - 9.1.2 This Agreement may be terminated by either party by giving at least thirty (30) days advanced written notice to the other party. Any provisions required by State or Federal

statute shall survive the expiration, cancellation, or termination of this Agreement.

- 9.2 Termination for Cause. This Agreement authorizes and Trading Partner acknowledges and agrees TennCare shall have the right to immediately terminate this Agreement and suspend operations, including, but not limited to, all processing operations, or any part thereof, or payments to providers, if Trading Partner fails to comply with, or violates a material provision of this Agreement.
- 9.2.1 Upon TennCare's knowledge of a material breach by Trading Partner, TennCare shall either:
- (i) Provide notice of breach and an opportunity for Trading Partner to reasonably and promptly cure the breach or end the violation, and terminate this Agreement if Trading Partner does not cure the breach or end the violation within the reasonable time specified by TennCare; or
 - (ii) Immediately terminate this Agreement if Trading Partner has breached a material term of this Agreement and cure is not possible; or
 - (iii) If termination, cure, or end of violation is not feasible, TennCare shall report the violation to the Secretary.
- 9.3 Effect of Termination. Upon termination of this Agreement for any reason, Trading Partner shall, at its own expense, either return and/or destroy all confidential information (including PHI) received, from TennCare or created or received by Trading Partner on behalf of TennCare. This provision applies to all confidential information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other confidential information in the possession of sub-contractors or agents of Trading Partner.
- 9.3.1 The Trading Partner shall consult with TennCare as necessary to assure an appropriate means of return and/or destruction and shall notify TennCare in writing when such destruction is complete. If information is to be returned, the Parties shall document when all information has been received by TennCare.
- 9.3.2 9.3.1 shall not prohibit the retention of a single separate, archived file of the confidential TennCare information by the Trading Partner if the method of such archiving reasonably protects the continued privacy and security of such information and the Trading Partner obtains written approval at such time from TennCare. Otherwise, neither Trading Partner nor its subcontractors and agents shall retain copies of TennCare confidential information, including enrollee PHI, except as provided herein.
- 9.3.3 The Parties agree to anticipate the return and/or the destruction TennCare confidential information, and understand that removal of the confidential information from Trading Partner's information system(s) and premises will be expected in almost all circumstances. The Trading Partner shall notify TennCare whether it intends to return and/or destroy the confidential information with such additional detail as requested. In the event Trading Partner determines that returning or destroying confidential

information received by or created for TennCare at the end or other termination of this Agreement is not feasible, Trading Partner shall provide to TennCare notification of the conditions that make return or destruction unfeasible.

- 9.3.4 The Parties contemplate confidential information of TennCare shall not be merged or aggregated with data from sources unrelated to this Agreement, or Trading Partner's other business data, including for purposes of data backup and disaster recovery, until the parties identify the means of return or destruction of the TennCare data or other confidential information of TennCare at the conclusion of this Agreement, or otherwise make an express alternate agreement consistent with the provisions of this Section.
- 9.3.5 Upon written mutual agreement of the Parties that return or destruction of all TennCare confidential information is unfeasible and upon express agreement as to the means of continued protection of the data, Trading Partner shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI or other confidential information to those purposes that make the return or destruction unfeasible, for so long as Trading Partner maintains such PHI or other confidential information.

10. GENERAL PROVISIONS

- 10.1 Regulatory Reference. A reference in this Agreement to a State or Federal law or regulation means the State or Federal law or regulation as in effect or as amended.
- 10.2 Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary to comply with related State and Federal regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended.
- 10.3 Assignment. Trading Partner shall not sell, transfer, assign or dispose of this Agreement, whole or in part, or any right, title or interest therein, to any other party without the express written consent of TennCare. Such consent, if granted, shall not relieve Trading Partner of its obligations under the Agreement.
- 10.4 Billing Service(s). In the event a billing service is used, the Trading Partner hereby certifies that the billing service is authorized to submit claims on the Trading Partner's behalf using Electronic Media. The Trading Partner agrees that if the billing agreement with the billing service is terminated, the Trading Partner shall immediately report the termination in writing to TennCare. The Trading Partner must complete a new security agreement and testing cycle when making a change from one billing service to another.
- 10.5 Entire Agreement. This Agreement, together with all addenda attached hereto and incorporated by reference herein, and construed in conjunction with a Service Agreement or State contract, contains the entire agreement of the parties and supersedes any previous understanding, commitment or agreement, oral or written, concerning the subject matter hereof, all of which are hereby incorporated. Any change to this Agreement shall be effective only when set forth in writing and executed by the parties.

- 10.6 Prohibition of Offshore Disclosure. Nothing in this Agreement shall permit the Trading Partner to share, use or disclose TennCare confidential information in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States without prior approval and express written authorization from TennCare.
- 10.7 Survival. The respective rights and obligations of Trading Partner under Section 9.3 of this Agreement shall survive the termination of this Agreement.
- 10.8 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Trading Partner and TennCare to comply with State and Federal laws or regulations.
- 10.9 Headings. Paragraph Headings are used in this Agreement are for the convenience of the Parties and shall have no legal meaning in the interpretation of the Agreement.
- 10.10 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice. (For purposes of this section, effective notice to "Respective Party" is not dependent on whether the person named below remains employed by such Party.) The Parties agree to use their best efforts to immediately notify the other Party of changes in address, telephone number, fax numbers and to promptly supplement this Agreement as necessary with corrected information.

BUREAU OF TENNCARE:

TRADING PARTNER:

Darin Gordon, Director
Department of Finance and Adm.
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243
(615) 507-6443
Fax: (615) 253-5607

Fax: _____

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

- 10.11 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
- 10.12 Severability. With respect to any provision of this Agreement finally determined by a -- court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.
- 10.13 TennCare Liability. TennCare shall have no liability except as specifically provided in this Agreement.
- 10.14 Intellectual Property. Neither party shall acquire any rights in the other party's Proprietary and/or Confidential Information under this Agreement except the limited rights necessary to perform or carry out the intended purposes set forth in this Agreement. This Agreement grants no license by either party to the other, either directly or by implication, estoppel or otherwise. All right, title and interest emanating from ownership of the Proprietary and/or Confidential Information shall remain vested in TennCare.
- 10.15 Injunctive Relief. The parties acknowledge that any remedy at law for the breach or threatened breach of the provisions of this Agreement may be inadequate to fully and properly protect TennCare and, therefore, the parties agree that TennCare may be entitled to injunctive relief in addition to other available remedies; provided, however, that nothing contained herein shall be construed as prohibiting TennCare from pursuing any other remedies available in law or in equity for such breach or threatened breach.
- 10.16 Force Majeure. The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

10.17 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by federal legislation and without giving effect to principles of conflicts of law. Jurisdiction shall be Davidson County, Nashville, Tennessee, for purposes of any litigation resulting from disagreements of the parties for purpose of this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement to be valid and enforceable from the last date set out below:

BUREAU OF TENNCARE

TRADING PARTNER

By: _____

By: _____

Date: _____

Date: _____

Darin J. Gordon, Director

State of Tennessee, Dept of Finance & Adm.

310 Great Circle Road

Nashville, Tennessee

(615) 507-6443

Fax: (615) 253-5607

Fax: _____

TennCare EDI Request Form

Select one: New EDI Submitter ☐ Existing EDI Submitter ☐ (Submitter ID _____)

Trading Partner Name: _____ **Tax ID:** _____

MCC ID or Medicaid Number: _____ **Sender Code:** _____

Contact Person: _____ **Contact Telephone:** (____) _____

Contact Email Address _____

Primary Submission Method: SFTP ☐ Web ☐ CD ☐ Cartridge ☐ DVD ☐

Indicate ALL transactions to be used between TennCare and this Trading Partner:

Transaction Name	Used (Y/N)	997 Ack (Y/N/NA)	Transaction Frequency	Transaction Source	Trading Partner Access Person(s)
270 Eligibility Verification		NA			
271 Eligibility Response					
271 Unsolicited		Yes		TennCare	
276 Claim Status Request		NA			
277 Claim Status Response				TennCare	
278 PA Request		NA			
278 PA Response				TennCare	
820 Capitation Payment				TennCare	
834 Enrollment & Audit		Yes		TennCare	
834 Enrollment to TennCare		NA		MCC	
835 Claims Remittance Advice				TennCare	
837D Dental Claims		NA			
837D Dental Encounters		NA		MCC	
837I Institutional Claims		NA			
837I Institutional Encounters		NA		MCC	
837P Professional Claims		NA			
837P Professional Encounters		NA		MCC	
NCPDP Batch 1.1 Crossover Claims		NA			
NCPDP Batch 1.1 Encounters		NA		MCC	
TPL File				TennCare	
Carrier Master File				TennCare	
Provider					
Claims/Encounter Extracts				TennCare	
SPMI/SED Assessments					
Miscellaneous MCC Related Files					

Form Completed by _____ Title _____

Effective Date _____ **Return Completed EDI Request forms to TennCare at the above address or fax to (615) 253-5995.**

TennCare area: Form processed by: _____ Date: _____ ID assigned or verified: _____

Comments: _____



**STATE OF TENNESSEE, Bureau of TennCare
Acceptable Use Policy
Network Access Rights and Obligations**

Purpose:

To establish guidelines for State-owned hardware and software, computer network access and usage, Internet and email usage, telephony, and security and privacy for users of the State of Tennessee Wide Area Network.

Reference:

Tennessee Code Annotated, §§ 4-3-5501, et seq., effective May 10, 1994;
Tennessee Code Annotated, § 10-7-512, effective July 2000; and,
Tennessee Code Annotated, § 10-7-504, effective July 2001, as amended May 2007. (Current through 2007 First Reg. Sess. 007).

State of Tennessee Security Policies.

Objectives:

- Ensure the protection of proprietary, personal, privileged, or otherwise sensitive data and resources that may be processed in any manner by the State, or any agent for the State.
- Provide uninterrupted network resources to users.
- Ensure proper usage of networked information, programs and facilities offered by the State of Tennessee networks.
- Maintain security of and access to networked data and resources on an authorized basis.
- Secure email from unauthorized access.
- Protect the confidentiality and integrity of files and programs from unauthorized users.
- Inform users there is no expectation of privacy in their use of State-owned hardware, software, or computer network access and usage.
- Provide Internet and email access to the users of the State of Tennessee networks.

Scope:

This Acceptable Use Policy applies to all individuals who have been provided access rights to the State of Tennessee networks, State provided email, and/or Internet via agency issued network or system User ID's. The scope does not include State phone systems, fax machines, copiers, State issued cell phones or pagers unless those services are delivered over the State's IP network.

Use and Prohibitions:

A. Network Resources

State employees, vendors/business partners/subrecipients, local governments, and other governmental agencies may be authorized to access state network resources to perform business functions with or on behalf of the State. Users must be acting within the scope of their employment or contractual relationship with the State and must agree to abide by the terms of this agreement as evidenced by his/her signature. It is recognized that there may be incidental personal use of State Network Resources. This practice is not encouraged and employees should be aware that all usage may be monitored and that there is no right to or expectation of privacy. Various transactions resulting from network usage are the property of the state and are thus subject to open records laws.

Prohibitions

- Sending or sharing with unauthorized persons any information that is confidential by law, rule or regulation.
- Installing software that has not been authorized by the Office for Information Resources of the Department of Finance and Administration.
- Attaching processing devices that have not been authorized by the Office for Information Resources of the Department of Finance and Administration.
- Using network resources to play or download games, music or videos that are not in support of business functions.
- Leaving workstation unattended without engaging password protection for the keyboard or workstation.
- Utilizing unauthorized peer-to-peer networking or peer-to-peer file sharing.
- Using network resources in support of unlawful activities as defined by federal, state, and local law.
- Utilizing network resources for activities that violate conduct policies established by the Department of Human Resources or the Agency where the user is employed or under contract.

B. Email

Email and calendar functions are provided to expedite and improve communications among network users.

Prohibitions

- Sending unsolicited junk email or chain letters (e.g. “spam”) to any users of the network.
- Sending any material that contains viruses, Trojan horses, worms, time bombs, cancel bots, or any other harmful or deleterious programs.
- Sending copyrighted material via email that is either not within the fair use

guidelines or without prior permission from the author or publisher.

- Sending or receiving communications that violate conduct policies established by the Department of Human Resources or the Agency where the user is employed or under contract.
- Sending confidential material to an unauthorized recipient, or sending confidential e-mail without the proper security standards (including encryption if necessary) being met.

Email created, sent or received in conjunction with the transaction of official business are public records in accordance with T.C.A 10-7-301 through 10-7-308, and the rules of the Public Records Commission. A public record is defined as follows:

“Public record(s)” or “state record(s)” means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. (T.C.A. 10-7-301(6)).

State records are open to public inspection unless they are protected by State or Federal law, rule, or regulation. Because a court could interpret state records to include draft letters, working drafts of reports, and what are intended to be casual comments, be aware that anything sent as electronic mail could be made available to the public. According to the Tennessee Public Records Act, correspondence of the employee in the form of electronic mail may be a public record under the public records law and may be subject to public inspection.

C. Internet Access

Internet access is provided to network users to assist them in performing the duties and responsibilities associated with their positions.

Prohibitions

- Using the Internet to access non-State provided web email services.
- Using Instant Messaging or Internet Relay Chat (IRC).
- Using the Internet for broadcast audio for non-business use.
- Utilizing unauthorized peer-to-peer networking or peer-to-peer file sharing.
- Using the Internet when it violates any federal, state or local law.

Statement of Consequences

Noncompliance with this policy may constitute a legal risk to the State of Tennessee, an organizational risk to the State of Tennessee in terms of potential harm to employees or citizen security, or a security risk to the State of Tennessee’s Network Operations and the user community, and/or a potential personal liability. The presence of unauthorized data

in the State network could lead to liability on the part of the State as well as the individuals responsible for obtaining it.

Statement of Enforcement

Noncompliance with this policy may result in the following immediate actions:

1. Written notification shall be sent to the Agency Head and to designated points of contact in the User Agency's Human Resources and Information Technology Resource Offices to identify the user and the nature of the noncompliance as "cause". In the case of a vendor, subrecipient, or contractor, the contract administrator shall be notified.
2. User access may be terminated immediately by the Systems Administrator, and the user may be subject to subsequent review and action as determined by the agency, department, board, or commission leadership, or contract administrator.



STATE OF TENNESSEE, Bureau of TennCare
Acceptable Use Policy - Network Access Rights and Obligations - User Agreement
Acknowledgement

As a user of State of Tennessee data and resources, I agree to abide by the Acceptable Use Network Access Rights and Obligations Policy and the following promises and guidelines as they relate to the policy established:

1. I will protect State confidential data, facilities and systems against unauthorized disclosure and/or use.
2. I will maintain all computer access codes in the strictest of confidence; immediately change them if I suspect their secrecy has been compromised, and will report activity that is contrary to the provisions of this agreement to my supervisor or a State-authorized Security Administrator.
3. I will be accountable for all transactions performed using my computer access codes.
4. I will not disclose any confidential information other than to persons authorized to access such information as identified by my section supervisor.
5. I agree to report to the Office for Information Resources (OIR) and/or the Bureau of TennCare Privacy Officer and Security Officer any suspicious network activity or security breach.

Privacy Expectations:

The State of Tennessee actively monitors network services and resources, including, but not limited to, real time monitoring. Users should have no expectation of privacy. These communications are considered to be State property and may be examined by management for any reason including, but not limited to, security and/or employee conduct.

I acknowledge that I must adhere to this policy as a condition for receiving access to State of Tennessee data and resources.

I acknowledge that I have read the Computer Crimes Act and the State of Tennessee Security Policy 4.00 Access. I understand the willful violation or disregard of any of these guidelines, statute or policies may result in my loss of access and disciplinary action, up to and including termination of my employment, termination of my business relationship with the State of Tennessee, and any other appropriate legal action, including possible prosecution under the provisions of the Computer Crimes Act as cited at TCA 39-14-601 et seq., and other applicable federal and state laws.

I have read and agree to comply with the policy set forth herein. (choose one only)

<i>Individual</i>	<i>Organization</i>
TennCare Division or	
Company Name _____	Organization Name _____
SSN (last 4 digits) _____	Reason _____
Name _____	ID No. TennCare Assigned _____
Signature _____	Name _____
Date _____	Title _____
	Signature _____
	Date _____

The following attachments shall be executed and attached to this Agreement:

TennCare TCMIS Security/Information Request form

State of Tennessee Network Connectivity Agreement